

## RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

Type of RID	Requested Response Time	DSD Assigned RID #
Customer RID <input type="checkbox"/>	24 hours <input type="checkbox"/>	081
Internal Staff RID <input checked="" type="checkbox"/>	5 working days <input type="checkbox"/>	
	As time available <input checked="" type="checkbox"/>	

1. **Project Name:** Wireless Communications Systems

2. **Project Number:** None

3. **Project Street Address:** None

4. **Applicant Name:** Andrew Spurgin

5. **Applicant Address:** City of San Antonio

6. **Applicant Telephone #:** 207-8229

7. **Applicant e-mail Address:** andrew.spurgin@sanantonio.gov

8. **Rule in Question:**

Wireless communication systems (i.e. "cell towers") as a permitted use.

9. **Applicant's Position:**

**Date:** 7/2/09 **Contact:** Andrew Spurgin **Contact Telephone #:** (210) 207-8229

Recently the public has contacted the Planning & Development Services Department (Department) to complain about the placement of several wireless communication towers in residential areas of San Antonio. In the process of responding to these inquiries from citizens it has been determined that over a period of several years there have been some inconsistencies when implementing the wireless communication systems (WCS) regulations of the Unified Development Code (UDC) found in §35-385.

First, the Department has granted requests to install wireless towers in residential zoning districts "by right" through the approval of a building permit and nothing more.

Second, the approval process of only using the building permit to approve the installation of wireless towers led in some cases to overlooking the applicability of overlay zoning districts, specifically the Edwards Aquifer Zone Overlay Regulations when reviewing wireless tower requests.

Third, the use matrix tables and the plain language of §35-385 do not always agree.

Fourth, in some cases wireless towers are located close to roadways in order to meet the setback requirements from a residential zone, in such cases fencing is necessary when otherwise prohibited to protect the security of the WCS facilities, to keep the public away from equipment, and to prevent unauthorized persons from climbing the tower structure.

Finally, some wireless providers have used stealth strategies to disguise conventional towers such as flagpoles, trees or clock towers to promote neighborhood compatibility.

This RID will provide consistency for customers and staff in the interpretation of §35-385.

## 10. Staff Finding:

**Date:** 7/2/09

**Contact:** Andrew Spurgin

**Contact Telephone #:** (210) 207-8229

After a detailed review of the ordinances and other legislative materials that gave rise to the WCS regulations, staff has determined that these regulations allow for the installation of wireless towers by three methods:

- 1) on private property in commercial and industrial zoning districts "by right" provided certain performance standards are met to protect the public health, safety, and general welfare;
- 2) "by specific use permit" on private property in residential zoning districts subject to setback areas, technical requirements and City Council approval;
- 3) and by a lease agreement on public property in commercial and industrial zoning districts and residential zoning districts.

As originally enacted by City Council, the primary objective of the WCS regulations was to minimize the proliferation of wireless towers, particularly in residential areas, while expanding the zoning districts where wireless towers could be installed. This objective was achieved by designating the installation of wireless towers as a permitted use of land *within specified non-residential* zoning districts subject to certain performance standards and allowing wireless communication systems by a specific use permit in residential zoning districts provided that certain requirements are met prior to filing a request for a zone change with the zoning commission.

In addition, wireless towers were allowed on public property owned, leased, or used by the City, San Antonio Water System (SAWS) or City Public Service (CPS) *within residential* zoning districts without further City Council approval. Wireless providers can access public property by executing a standard tower lease agreement. As a result, wireless providers have access to all zoning districts "by right," either through a building permit application for commercial and industrial zones, or through the execution of a standard tower lease agreement with the City, SAWS or CPS for public property in residential zones.

Permission to install wireless towers on private property in residential zones is only allowed by a "specific use permit" subject to City Council approval. See San Antonio City Ordinances No. 83930 and No. 83931, and Resolution No. 96-13-13 all approved by the City Council April 11, 1996. Overlay regulations are applicable regardless of the base zoning designation where an applicant proposes to install a wireless tower in an overlay district or over the Edwards Aquifer Recharge Zone District.

Further, staff finds no provisions authorizing different standards for flagpoles or other stealth towers although the use of flagpoles or other stealth devices for WCS may provide greater compatibility with surrounding neighborhoods and protect aesthetics. While staff supports the use of such camouflage strategies to promote neighborhood compatibility, it finds that stealth or camouflage towers are subject to the same requirements as conventional wireless towers under the WCS regulations and that no *Master Plan* policy nor any other UDC provision to suggest that a stealth tower should be held to any different standards than a conventional WCS tower.

In addition, staff notes the symmetry between the Radio and Television (R/TV) provisions in §35-385(b) and (c) with the WCS provisions in §35-385 (d) and (e) in regard to their placement of towers in nonresidential districts and residential districts. Specifically §35-385 (b) and (e) contain requirements applicable to the placement of R/TV and WCS towers in non-residential districts, while §35-385 (c) and (d) address requirements related to the placement of R/TV and WCS towers in residential districts. The staff finds that the intent of this dual standard is to facilitate the orderly placement of such tower facilities in nonresidential areas and to create safeguards for residential districts by allowing such communication devices in residential districts upon attainment of a specific use authorization, which provides notice to neighboring property owners of the use and allows a site-specific review process to ensure compatibility with adjacent neighborhoods.

## Section 35-385. Radio, Television Antennas, and Wireless Communication Systems.

Staff finds that UDC§35-385 governs the zoning regulations for the placement and installation of wireless towers for radio and television antennas (R/TV), and wireless communication systems (WCS) facilities. As this section is located within the Supplement Use standards of Article III of the UDC, it is intended to provide predictable standards for the placement of wireless towers throughout the City of San Antonio.

### Subsection 35-385 (a) Applicability

Staff finds that UDC§35-385 (a) governs the scope and applicability of the WCS regulations found in §35-385 and that the WCS regulations apply only to non-residential zoning districts.

*(a) Applicability. The provisions established in this section shall apply to the development of wireless communications systems in the "NC," "C," "O," "L," "I-1" and "I-2" districts.*

### Subsection 35-385 (b) Radio and Television Antennas.

UDC§35-385 (b) is not the subject of this RID and is only referenced for clarity.

### Subsection 35-385 (c) Radio and Television Antennas in Residential Zoning Districts.

UDC§35-385 (c) is not the subject of this RID and is only referenced for clarity.

### Subsection 35-385 (d) Wireless Communications Systems.

Staff finds that UDC §35-385(d) allows WCS towers in residential districts by an "S" specific use authorization once the supplemental use regulations of that section are met.

*(d) Wireless Communication Systems. Wireless communication systems shall be a specific use permit. Prior to filing a request for a zone change with the zoning commission the following requirements must be met:*

*(1) Building Permit. A building permit from the development services department shall be required for the installation of any antenna support structure or unmanned equipment shelter developed for a wireless communication system. A permit shall be issued only when there is full compliance with this section and the applicable provisions of the International Building Code. Applications for a permit shall be accompanied by the following in duplicate:*

*A. Construction drawings showing the proposed method of installation.*

*B. The manufacturer's recommended installations, if any.*

*C. A diagram to scale showing the location of the antenna, property and setbacks, easements, power lines, and all structures.*

*D. Certification by a structural or civil engineer registered by the State of Texas that the proposed installation complies with the structural requirements of the International Building Code.*

*E. All antennas shall be maintained in good condition and in accordance with the requirements of this section. No additions or modifications shall be made to an antenna, unless it is in conformity with the International Building Code and this section.*

*F. All antennas and antenna support structures shall comply with the height restrictions of the joint airport and airport hazard zoning regulations, and the City Code, as applicable.*

*No provision within this part exempts requirements for compliance with the landscape ordinance.*

(2) *Spacing of antenna support structures from residential zoning districts.* Antenna support structures shall be spaced two hundred (200) feet from all residential zoning districts, measured from the base of the antenna support structure to the nearest residential zoning district boundary. Spacing requirements for antenna support structures on property zoned residential shall not apply if the property is vacant, undeveloped, and or unplatted and is located at least two hundred (200) feet, measured from the base of the antenna support structure to the nearest residential land use.

(3) *Equipment Buildings.* The wireless communication system unmanned equipment buildings shall not have more than seven hundred fifty (750) square feet of gross floor area and shall not be more than twelve (12) feet in height.

(4) *Design in Residential Zoning Districts.* Antenna support structures developed after the adoption of these regulations located in residential zoning districts must be monopole design. The height of antenna support structures in all districts may not exceed one hundred ninety-nine (199) feet. If the city council approves a height of an antenna support structure which exceeds one hundred ninety-nine (199) feet, the spacing of the antenna support structure to the nearest residential district must be at a minimum equal to one hundred ten (110) percent of the height of the antenna support structure.

(5) *HDRC Review.* Antenna support structure towers are prohibited if they are: within two hundred (200) feet of the San Antonio River; or within two hundred (200) feet of a historic landmark; or within two hundred (200) feet of a historic district or river overlay district; or within a historic district or river overlay district. In conjunction with consideration by the zoning commission the application for city council approval may be presented to the Historic Design and Review Commission (HDRC) if the antenna support structure is located within two hundred (200) feet of the Riverwalk or within a historic district.

#### Subsection 35-385 (e) Wireless Communications Systems Permitted by Right.

Staff finds that §35-385 (e) allows WCS towers on private property by right in non-residential zoning districts as authorized by §35-385 (a) provided that the supplemental use regulations of §35-385 (d) and (e) are met. [Note: Staff acknowledges that under §35-385(f) WCS towers are allowed on public property in residential zoning districts without City Council approval through execution of a standard lease agreement.]

*(e) Wireless Communications Systems Permitted by Right. Wireless communication systems shall be a use permitted by right in all zoning districts and not subject to the requirements of section 35-311, permitted uses, if:*

*(1) The requirements set forth in subsections (d)(1) through (d)(5) of this section are met; and,*

*(2) The antenna support structures must be constructed to support a minimum of two (2) antenna arrays from two (2) separate wireless communication system providers or users.*

*(3) No provision within this part exempts requirements for compliance with the landscaping standards of this chapter.*

*(4) The historic preservation officer shall review the permit request if the proposed wireless communication system is located within two hundred feet (200) of the Riverwalk or within a historic district. The permit request may be presented to the Historic Design and Review Commission (HDRC) for a recommendation if the antenna support structure is located within two hundred (200) feet of the Riverwalk or a historic landmark or within a historic district.*

#### Subsection 35-385 (f) Wireless Communication Systems in Public Right-of-Way.

Staff finds that §35-385(f) allows wireless providers to access public property anywhere in the City, including in residential areas. Since §35-385(f) addresses access by providers to public property, it falls outside the scope of traditional zoning regulations which limit permitted uses of private property.

(f) *Wireless Communication Systems in Public Right-of-Way.* Wireless communication systems shall be a use permitted by right in all zoning classifications if the land, structures, rights-of-way or easements are owned, leased or used by the City of San Antonio, San Antonio Water System, or CPS Energy; if:

(1) *Generally.*

A. CPS Energy electrical substations and power generation plants shall be reviewed by the historic and design review commission if they are within two hundred (200) feet of the river overlay district, or if they are two hundred (200) feet of a historic landmark, if they are within two hundred (200) feet of a historic district, or if they are within a historic district.

B. The requirements set forth in subsections (d)(1), (d)(3), and (d)(5) of this part are met, subsection (d)(6) shall not apply to CPS Energy electrical substations and power generation plants.

(2) *Spacing of Antenna Support Structures From Residential Structures.* Subject to provisions set forth in subsection (5), antenna support structures shall be spaced from all residential structures, at a minimum equal to one hundred fifteen (115) percent of the height of the antenna support structure, measured from the base of the antenna support structure to the nearest residential structure. Spacing requirements for antenna support structures on property zoned residential shall not apply if the property is vacant, undeveloped, and or unplatted and is located at least two hundred (200) feet, measured from the base of the antenna support structure to the nearest residential structure. Spacing requirements for antenna support structures shall not apply to existing CPS Energy electrical substations and power generation plants.

(3) *Co-Location.* All antenna support structures must be constructed to support a minimum of two (2) wireless communication system antenna arrays from two (2) separate wireless communication system providers or users. Antenna support structures erected on CPS Energy electrical substations shall not be subject to construction standards that require design and construction to support two (2) or more antenna array.

(4) *Prohibitions Regarding the Riverwalk, Historic Landmarks, and Historic Districts.* Wireless communication towers shall be prohibited in all zoning classifications if the land, structures, rights-of-way or easements are owned, leased or used by the City of San Antonio, San Antonio Water System, or CPS Energy and are within two hundred (200) feet of the river overlay district, or are within two hundred (200) feet of a historic landmark, or are within two hundred (200) feet of a historic district, or are in a historic district. The historic preservation officer shall review the permit request and if the proposed wireless communication system is located within two hundred (200) feet of the Riverwalk or within a historic district.

(5) *Spacing Exemptions.* Antenna array may be attached to existing antenna support structures, transmission towers, existing poles and water tanks and towers in all zoning districts, without spacing requirements; if,

- The pole replaced or modified is a functioning utility pole or light standard within a utility easement or public right-of-way, recreation facility light pole, or antenna support structure; and,
- The replaced or modified antenna support structure, including antenna array, does not exceed the height of the original utility, light standard, or recreation facility pole by more than twelve (12) feet, or the height of the original telecommunication tower and antenna array; and,
- The pole replaced with an antenna support structure does not obstruct a public sidewalk, public alley, or other public right-of-way; and, pole appearance and function, except for antennas, are not significantly altered.

(6) *Building Permit Exemptions.* No building permit shall be required for wireless communication systems developed on CPS Energy electrical substations and power generation plants.

(7) *Landscaping Standards.* No provision within this part exempts requirements for compliance with the landscaping standards of this chapter.

## **Section 35-311, Use Regulations and Section 35-385, Radio, Television Antennas, and Wireless Communication Systems.**

Staff finds that the text in §35-385(a) is controlling over Tables 311-1, 311-2 and 311-2a. In consideration of the text of §35-385(a) and (e), and the use tables of Article III, §35-311, staff finds that the intent of the

UDC is to allow WCS facilities on private property by right only in nonresidential zoning districts provided certain performance standards are met, and to require a specific use authorization in all residential zoning districts and in those cases where the performance standards of §35-385 (e) cannot be attained.

The Nonresidential Use Matrices, Tables 311-2 and 311-2a, indicate that WCS facilities are allowed with specific use authorization, "S", in the following zoning districts: O-2, C-2, C-3, D, L, UD, RD, FR and MI-1 districts. These tables also note that WCS facilities are permitted by right, "P," only in the I-1, I-2 and MI-2 districts. The residential use matrix, Table 311-1, shows WCS facilities as "S" in all single family districts and multi-family zoning districts. Table 311-2 makes no allowance for WCS facilities in the O-1, NC and C-2 commercial districts, however these districts are referenced in §35-385 (a). Furthermore, irrespective of these use tables, WCS facilities will be permitted by right in nonresidential zoning districts provided certain performance standards are met as limited by §35-385(a) pursuant to §35-385(e).

Accordingly, the following table should be used when interpreting §35-385.

### **Interpretation Table**

#### **35-385 Radio, Television Antennas, and Wireless Communication Systems**

##### **1) Nonresidential zoning districts**

- **Radio and Television Antennas follow §35-385 (b)**
- **Wireless Communication Systems follow §35-385 (e)**

##### **2) Residential zoning districts**

- **Radio and Television Antennas follow §35-385 (c)**
- **Wireless Communications Systems follow §35-385(d)**

##### **3) Access to public property in all zoning districts**

- **Wireless Communication Systems follow 35-385 (f)**

#### **DIVISION 7, SUPPLEMENTAL USE REGULATIONS, 35-385, Radio, Television Antennas, and Wireless Communication Systems.**

The supplemental use section of Article III establishes standards for unique uses that differ from the standards of the base zoning districts, such as landfills, schools, home occupations and WCS facilities. The WCS standards in §35-385 are unique and provide for performance standards that differ from the regulations of the base zoning district, such as an increased setback distance and a height limit suitable to a communications tower rather than a building.

The specific use authorization process in §35-423 allows a site-by-site evaluation of the proposed unique use to determine if the WCS use would affect adversely adjoining property instead of following uniform zoning regulations for a WCS use permitted by right. This process allows the City Council to establish standards appropriate to the proposed use in residential zoning districts and its context with the surrounding neighborhood as provided in UDC §35-423(d) (4):

*In approving any specific use authorization, the city council may . . . impose such reasonable standards, conditions or requirements, in addition to or which supersede any standard specified in this chapter, as it may deem necessary to protect the public interest and welfare. Such additional standards may include, but need not be limited to, special setbacks, yard requirements, increased screening or landscaping requirements, area requirements, development phasing, and standards pertaining to traffic, circulation, noise, lighting, hours of operation and similar characteristics.*

For example, where the WCS use is allowed only by a specific use authorization, the City Council could elect to reduce the greater setback from residential zoning districts imposed by §35-385(d) or approve a stealth or camouflage tower through the specific use authorization process. The standards of the base zoning district as specified in Table 310-1 and elsewhere in the UDC shall still be applicable.

In examining the spacing requirements of §35-385 (d) (1) through (5), staff notes the following:

- (2) *Spacing of antenna support structures from residential zoning districts. Antenna support structures shall be spaced two hundred (200) feet from all residential zoning districts, measured from the base of the antenna support structure to the nearest residential zoning district boundary. Spacing requirements for antenna support structures on property zoned residential shall not apply if the property is vacant, undeveloped, and or unplatted and is located at least two hundred (200) feet, measured from the base of the antenna support structure to the nearest residential land use.*

The purpose of the 200 foot spacing requirement is to protect established residential neighborhoods from encroachment of WCS facilities located in non-residential zoning districts. The second sentence of this section recognizes that the City Council may provide for an exception to the requirement to establish a 200 foot distance between the antenna support structure in an adjoining residential property and the boundary of another residential property through the specific use authorization process. The purpose of this exception is to recognize that neighboring residential properties that are vacant, undeveloped and or unplatted may not require the same level of protection from the WCS facilities and thus rather than providing a mandatory 200 foot distance from the tower to the boundary of the residential property, more flexibility is granted to the City Council to allow the tower to be placed anywhere on the chosen site so long as 200 feet is maintained to the nearest residential land use. This interpretation is analogous to Footnote (2) to Columns J & K in Table 310-1 which exempts setback requirements for other uses where the property is not in use for residential purposes.

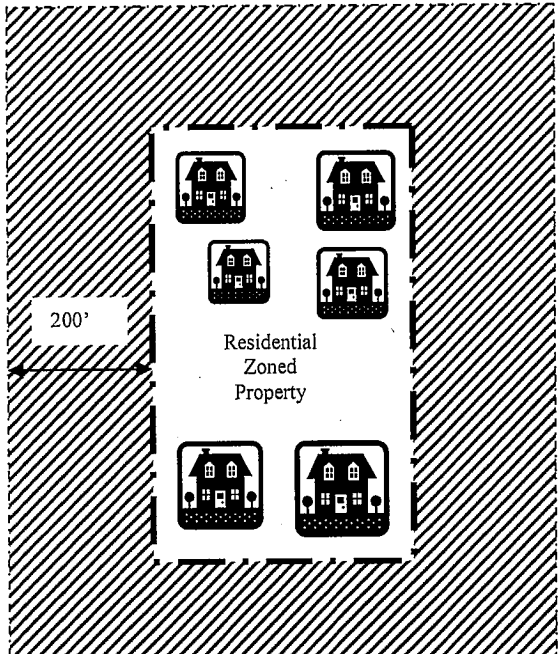
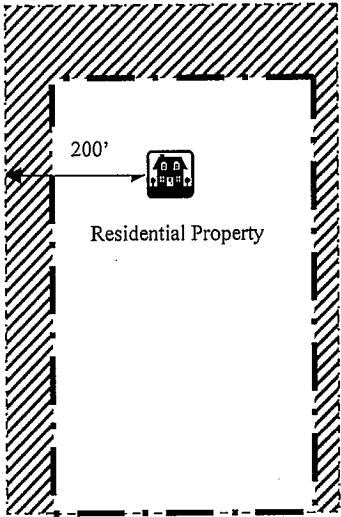
**Table 310-1  
Lot and Building Dimensions Table**

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)
	BLDG ON LOT												
Zoning District	Lot Size (min)	Lot Size (max)	Density (max) (units/acre)	Street Frontage(min)	Width (min)	Width (max)	Front Setback (min)	Front Setback (max)	Side Setback (min)	Rear Setback (min)	Height (max)	Size - Individual Building Size (max)	Size - Aggregate Building Size (max)
*****	*****	*****	**	****	****	****	*****	*****	*****	*****	*****	*****	*****

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**Note (2) - Columns (J) & (K):** Applies only to the setback area measured from a lot line which abuts a residential use or residential zoning district. The side or rear setback shall be eliminated where the use does not abut a residential use or residential zoning district or the two districts are separated by a public right-of-way. The indicated setback would not apply if the subject property adjoins a residentially zoned property (single-family or multi-family) which is occupied by an existing non-residential use such as a public or private use school, church, park and/or golf course.

The graphic below indicates how the 200 foot distance rule applicable on different types of property as contemplated by §35-385 (d)(2). In each graphic the shaded area shows the setback or safety zone around the protected residential property where placement of a WCS tower is prohibited.

<b>Wireless Communications System in Non-residential Property Abutting Residential Zoned Property - 200' Tower Setback from Residential Zoned Property Boundary. 200' May Not Be Reduced By City Council.</b>	<b>Wireless Communications System In Residential Property Abutting Residential Property - 200' Tower Setback from Residential Property. 200' May Be Reduced By City Council.</b>
	
<p>WCS tower may not be placed in non-residential property within 200' measured from the boundary of a residential zoned district.</p>	<p>WCS tower may not be placed in residential property adjoining residential property within 200' of a residential use measured from the antenna support structure except as authorized by the City Council through the specific use authorization process.</p>

### Section 35-332 "ERZD" Edwards Recharge Zone District

Staff finds that any request to install a WCS tower over the Edwards Aquifer in any zoning district must comply with the ERZD Regulations. Nothing in §35-385 exempts WCS facilities from complying with the Edwards Aquifer Overlay Regulations (ERZD Regulations) found in §35-332.

### Section 35-514 Fences, Subsection 35-514 (d), Height Limitation.

Staff finds that §35-514(d) of the UDC was amended by City Council on April 3, 2008 to specify maximum fence heights in a number of different situations. Industrial uses are entitled to maximum fence heights of eight feet at the front, side and rear yards consistent with the "TABLE OF HEIGHTS" found in §35-514(d). Accordingly, staff finds that for the purposes of fencing WCS facilities will be considered as a utility use and shall follow the standards of industrial uses.



## **11. Staff Position:**

**Date:** 7/2/09

**Contact:** Andrew Spurgin    **Contact Telephone #:** (210) 207-8229

Consistent with §35-385(a), WCS facilities on private property shall be permitted by right only in non-residential districts, including in the NC, C, O, L, I-1 and I-2 zoning districts, inclusive of the C-1, C-2, C-3, O-1, O-1.5 and O-2 districts and in such cases shall comply with §35-385(e). For properties zoned residential, and when the performance standards of §35-385(e) cannot be met in conjunction with the placement of a WCS tower on private property in the NC, C-1, C-2, C-3, O-1, O-1.5, O-2, L, I-1 or I-2 districts, a specific use authorization shall be obtained to permit the installation of the WCS tower. Staff notes the appearance of an "S" in the ERZD column in tables 311-1 and 311-2 which indicates applicability of the specific use authorization process and review of the underlying WCS request by SAWS. In no case shall WCS facilities be permitted in the ERZD without SAWS review and recommendation. Irrespective of the base zoning district where the WCS tower is requested for installation, if the subject property is within the ERZD, the WCS request will require specific use authorization.

Requests to install wireless towers on private property in residential zoning districts "by right" through the approval of a building permit and nothing more is contrary to the WCS regulations and is not allowed under these regulations.

Submittal of the site plan and other required materials of the specific use authorization will be used by staff to determine the appropriateness of the request and to make a recommendation to the Zoning Commission and City Council. The specific use authorization allows the City to impose additional standards to protect neighborhood integrity such as special setbacks, screening and lighting consistent with §35-423(d)(4). Staff finds that pursuant to UDC §35-423(d)(4), the specific use authorization process allows for City Council modification of the performance standards found in §35-385 (d) if necessary to protect the public interest.

Industrial uses are entitled to maximum fence heights of eight feet at the front, side and rear yards consistent with the "TABLE OF HEIGHTS" found in §35-514(d). For the purpose of this table, utility uses such as the installation of WCS facilities are considered industrial uses.

Stealth towers, such as flagpoles, trees or clock towers shall be regulated in the same manner as WCS facilities and shall not enjoy any special privileges.

Staff finds no authority to treat nonconforming WCS facilities any different than other uses in the Unified Development Code. As such, nonconforming structures shall be regulated by §35-707 titled "Nonconforming Structures" and nonconforming uses may expand upon approval of a specific use authorization as provided for in §35-709.

## **12. Departmental Policy or Action:**

**Date of policy/action:** 7/2/09

**Effective Date of policy/action:** Immediately

Consistent with §35-385(a), WCS facilities on private property shall be permitted by right only in non-residential districts, including in the NC, C, O, L, I-1 and I-2 zoning districts, inclusive of the C-1, C-2, C-3, O-1, O-1.5 and O-2 districts and in such cases shall comply with §35-385 (e). For properties that are zoned residential, and when the performance standards of §35-385(e) cannot be met in conjunction with the placement of a WCS tower on private property in the NC, C-1, C-2, C-3, O-1, O-1.5, O-2, L, I-1 or I-2 districts, a specific use authorization shall be obtained to permit the installation of the WCS tower. Staff notes the appearance of "S" in the ERZD column in tables 311-1 and 311-2 indicates the applicability of the specific use authorization process and

review of the underlying WCS request by SAWS. In no case shall WCS facilities be permitted in the ERZD without SAWS review and recommendation. Notwithstanding the base zoning district where the WCS tower is requested for installation, if the subject property is within the ERZD, the WCS request will require specific use authorization.

Submittal of the site plan and other required materials of the specific use authorization will be used by staff to determine the appropriateness of the request and to make a recommendation to the Zoning Commission and City Council. The specific use authorization allows the City to impose additional standards to protect neighborhood integrity such as special setbacks, screening and lighting consistent with §35-423(d)(4). Staff finds that pursuant to UDC §35-423(d)(4), the specific use authorization process allows for City Council modification of the performance standards found in §35-385 (d) if necessary to protect the public interest.

Accordingly, the following table should be used when interpreting §35-385.

<b>Interpretation Table</b>	
<b>35-385 Radio, Television Antennas, and Wireless Communication Systems</b>	
<b>1) Nonresidential zoning districts</b>	
• Radio and Television Antennas follow §35-385 (b)	
• Wireless Communication Systems follow §35-385 (e)	
<b>2) Residential zoning districts</b>	
• Radio and Television Antennas follow §35-385 (c)	
• Wireless Communications Systems follow §35-385(d)	
<b>3) Access to public property in all zoning districts</b>	
• Wireless Communication Systems follow 35-385 (f)	

Requests to install wireless towers on private property in residential zoning districts "by right" through the approval of a building permit and nothing more is contrary to the WCS regulations and will no longer be allowed under these regulations.

Industrial uses are entitled to maximum fence heights of eight feet at the front, side and rear yards consistent with the "TABLE OF HEIGHTS" found in §35-514(d). For the purpose of this table, utility uses such as the installation of WCS facilities are considered industrial uses.

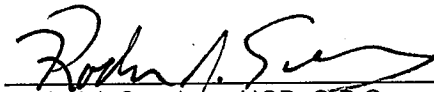
Stealth towers, such as flagpoles, trees or clock towers shall be regulated in the same manner as WCS facilities and shall not enjoy any special privileges.

Nonconforming structures shall be regulated by §35-707 titled "Nonconforming Structures" and nonconforming uses may expand upon approval of a specific use authorization as provided for in §35-709.

In addition the director instructs the staff to forward the provisions of RID 077 as a future amendment to the UDC, clarifying the language in §35-385 to indicate the specific use authorization requirement for wireless communication systems in all districts not provided for in §35-385(a). Further Table 311-2 shall be corrected as shown below to allow staff to easily understand the locational criteria for this use:

TABLE 311-2 NON-RESIDENTIAL USE MATRIX												
	PERMITTED USE	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD (LBCS Function)
Utilities	Wireless Communication System, subject to §35-385 (e)	P	S P	P	P	S P	S P	S P	S P	P	P	S 4233

Training of Department staff shall be conducted as soon as possible to implement this RID.



Roderick Sanchez, AICP, C.B.O  
Director, Planning & Development Services Department